THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

+Writ Petition No.25888 of 2006

% 05.03.2007

Between:

The Director of Fisheries,
Government of A.P., Hyderabad and others

…Petitioners

And

The Fishermen Cooperative Society,
Kalyani Village, Nizamabad District and another

…Respondents

! COUNSEL FOR PETITIONERS: Sri V. Ravi Kiran Rao

^ COUNSEL FOR RESPONDENTS: G.P. for Fisheries

Sri Sairam Goud for R-4

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> Head Note:

? CITATIONS:

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W.P.NO.25888 OF 2006

ORDER:

The petitioner is a Fishermen Co-operative Society, Kalyani Village, Nizamabad District. It was registered about 35 years ago, with five villages as its area of operation. Lingareddypet, is one such village.

Certain persons, claiming to be the fishermen of Lingareddypet village, under the leadership of the 4th respondent, submitted a representation dated 20-09-2005 to the respondents 2 and 3, with a request to form a separate Fishermen Co-operative Society, for that village, by deleting it from the purview of the petitioner-society. Acting on the same, the 4th respondent addressed a letter dated 08-12-2005 to the petitioner-society, with a direction to place the matter of bifurcation of the society before the General Body, in accordance with Section 15-A of the A.P. Co-operative Societies Act (for short '*the Act*'), and submit a reply within 21 days. The matter was accordingly placed before the general body of the petitioner-society on 23-12-2005. The general body unanimously resolved to oppose the proposal of bifurcation. The copy of the resolution was forwarded to the 2nd respondent. Once again the 2nd respondent addressed letter dated 08-08-2006 requiring the petitioner to place the matter of bifurcation of the society before the general body. The petitioner-society in turn, fixed a general body meeting on 19-08-2006 and passed the resolution opposing the proposal.

The 2nd respondent addressed a letter dated 18-11-2006 pointing out certain irregularities, said to have been committed by the

petitioner-society, in the matter of admission of members.

At the end of the proceedings, the 2nd respondent directed the petitioner, to explain as to why a separate society for Lingareddypet, shall not be constituted. The petitioner challenges the action of the respondents, particularly the 2nd respondent, on several grounds. It is urged that once the proposal initiated by the 2nd respondent for bifurcation was not agreed to, by the general body of the society, there was no basis for either insisting on repetition of the exercise, or in searching for reasons. According to the petitioner, the letter dated 18-11-2006, is totally outside the purview of the exercise, under Section 15-A of the Act, and a pressurizing devise has adopted by the 2nd respondent against the petitioner.

The 2nd respondent filed a counter affidavit, on behalf of himself and respondents 1 and 3. He has stated the purport of his letter dated 08-12-2005; the grounds on which the petitioner-society did not agree for the proposal, and the circumstances that led to the further steps. According to him, a skill test was conducted for the persons, hailing from Lingareddypet village, and that it was found feasible to constitute a society for that village. Voluminous record is also enclosed to the counter affidavit, touching upon the allegations made by the petitioner, and the denial thereof.

The 4th respondent filed a separate counter affidavit, trying to justify the action of the 2nd respondent. He contended that several persons, who are genuine and qualified fishermen, were denied admission into the petitioner-society, and that there is no basis for opposing the formation of such a society.

Sri V. Ravi Kiran Rao, learned counsel for the petitioner, submits that once the proposal for bifurcation of the petitioner- society

was discussed by the general body, and its decision was communicated to the 2nd respondent, necessary steps ought to have been taken, in accordance with law. He contends that, with a view to pressurize the petitioner-society, the 2nd respondent had initiated action on several fronts, which are outside the scope of Section 15-A of the Act.

Learned Government Pleader for Fisheries, and Sri Sairam Goud, learned counsel for the 4th respondent, submit that the interests of the genuine fishermen, from Lingareddypet village, were not protected by the petitioner-society, and that it became necessary, for them, to form a separate society. They contend that the effort of the 2nd respondent was only to examine the matter of bifurcation of the society from all possible angles, and that no illegality has taken place.

The Act, *inter alia* provides for formation of societies and bifurcation thereof, if the situation warrants. The petitioner-society came into existence about 35 years ago, and it covered the area of operation of five villages. One cannot expect the same state of affairs to continue, for decades together. Whenever it becomes necessary to bifurcate the society, or to register a new society, by carving out an area, from the purview of an existing society, the functional registrar has to examine the proposal, and thereafter ascertain the views of the existing society. Section 15-A of the Act prescribes the steps to be followed in this regard.

On his part, the 2nd respondent acted promptly on receiving a representation from the alleged fishermen, from Lingareddypet. Through his letter dated 08-12-2005, the 2nd respondent required the petitioner to place the matter before the general body. In compliance thereof, the general body of the petitioner-society met on 23-12-2005

and a unanimous resolution, opposing the proposal was passed. It was communicated to the 2nd respondent. Further, the 2nd respondent has chosen to address another letter,

dated 08-08-2006, requiring the matter of bifurcation to be discussed by the general body of the petitioner-society.

No reference was made to the earlier proceedings, including the resolution of the society, dated 23-12-2005. All the same, the petitioner complied with this, and a general body meeting was held, where the same parties were repeated. At least, now,

the 2nd respondent ought to have taken necessary steps, as provided for under Law.

However, he issued a detailed proceedings dated 18-11-2006, pointing out several alleged irregularities, in the matter of admission of members. If it were to be separate proceedings or steps, there would have been no scope for the petitioner to comply to it. However, the various allegations made by the 2nd respondent, against the petitioner, were in the context of the bifurcation under Section 15-A. Such a course is outside the scope of that provision. The purport of that letter gives an indication, that the proposed bifurcation is resorted to, as a measure of punishment to the society, for the irregularities pointed out therein.

The proposals for formation of a new society for Lingareddypet village must be examined, with reference to the resolution passed by the general body, in compliance with the direction issued by the 2nd respondent, and the relevant provisions of law. Pressing into service the alleged irregularities, as to admission of members or denial thereof, in the context of the admission, said to be under section 15-A of the Act; cannot be countenanced. Carving out an area, or bifurcation of the society, is not dependent upon any irregularity or

illegality attributable to the existing society. Therefore, the steps taken by the

2nd respondent, subsequent to his letter dated 08-12-2005, and the resolution of the general body of the petitioner-society,

dated 23-12-2005, deserve to be treated as unrelated to the said exercise; liable to be omitted for consideration.

Hence, the writ petition is disposed of, directing that the respondents shall examine the proposal for formation of Fishermen Cooperative Society, for Lingareddypet, with reference to the letter dated 08-12-2005, issued by the 2nd respondent; resolution dated 23-12-2005, passed by the general body of the petitioner-society, and the relevant provisions of law, uninfluenced by any developments, that may have taken place subsequent thereto, or the acts and omissions, mentioned in the letter dated 18-11-2006, issued by the 2nd respondent.

There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.05-03-2007.

Note:
L.R copy to be marked.
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